IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

OP.No. 19630 of 1999(J)

PETITIONER:

K.BABY, FULL-TIME MENIAL,
NOW WORKING IN THE GOVT. H.S.,
SOORNADU, KOLLAM DIST.

BY ADV. SRI.K.GEORGE VARGHESE KANNANTHANAM

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE SECRETARY TO GOVT., GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.**

3. **THE DEPUTY DIRECTOR OF EDUCATION, KOLLAM.**

4. **THE DIST. EDUCATIONAL OFFICER, KOTTARAKKARA.**

5. **THE MANAGER, DR. C.T. EAPEN MEMORIAL RESIDENTIAL HIGH SCHOOL, PORUVAZHY P.O., SASTHAMKOTTA.**

6. **THE HEADMASTER, DR. C.T. EAPEN MEMORIAL RESIDENTIAL HIGH SCHOOL, PORUVAZHY P.O., SASTHAMKOTTA.**

BY GOVERNMENT PLEADER SMT. SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS. 32335/1999 AND 43925/1999 IN OP NO. 19630/1999.

DISMISSED

05/11/1999. SD/- THOTTATHIL. B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER DT. 6/11/86 APPOINTING THE PETITIONER BY THE MANAGER.

EXT.P1A. COPY OF THE APPROVAL ORDER NO. B3/8699/87/D.DIS DT. 27/07/87 ENDORSED ON EXT.P1 BY THE R4 DEO.

EXT.P2. COPY OF THE STAFF FIXATION ORDERD T. 28/11/95 BY THE R4 DEO.

EXT.P2A. COPY OF THE APPENDIX APPENDED TO EXT.P2 ORDER DT. 28/11/95.

EXT.P3. COPY OF THE GO MS NO. 104/69/EDN DT. 6/3/69 OF THE EDUCATION (J) DEPT.

EXT.P4. COPY OF THE GO MS NO. 175/EDN DT. 15/4/70 OF THE -DO-

EXT.P5. COPY OF THE GO RT NO. 5508/70/G.EDN DT. 23/12/70 OF THE SCHOOL EDUCATION (J) DEPT.

EXT.P6. COPY OF THE GO MS NO. 155/88/G.EDN DT. 11/10/88 OF THE GED(J).

EXT.P7. COPY OF THE GO MS NO. 60/96/G.EDN DT. 15/2/88 OF THE -DO-

EXT.P8. COPY OF THE JUDGMENT DT. 9/10/97 IN OP NO. 17664/97 OF THIS COURT.

EXT.P9. COPY OF THE ORDER NO. 56894/N2/97/GE DT. 7/2/98 OF THE GED(J).

EXT.P10. COPY OF THE GO MS NO. 311/98/G.EDN DT. 6/08/98 OF THE GENERAL EDUCATION (J) DEPT.

EXT.P11. COPY OF THE REPRESENTATION DT. 17/08/98 BY THE PETITIONER TO THE R4 DEO.

EXT.P12. COPY OF THE REPORT DT. 5/12/98 TO THE R4 BY THE MANAGER.

EXT.P13. COPY OF THE REPRESENTATION DT. 10/11/98 BY THE PETITIONER TO THE R3.

EXT.P14. COPY OF THE ORDER K.DIS B6/6111/98 DT. 26/10/98 BY THE R4.

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EXT.P15. COPY OF THE REPRESENTATION DT. 18/12/98 BY THE PETITIONER TO THE R4.

EXT.P16. COPY OF THE GO MS NO. 231/84/G.EDN DT. 27/10/84 OF THE GENERAL EDUCATION (J) DEPARTMENT.

EXT.P17. COPY OF THE ORDER NO. A5/ 2/99 DT. 12/3/99 BY THE ADMINISTRATIVE ASST. OF THE R3.

EXT.P18. COPY OF THE RELIEVING ORDER NO. G. 239/98-99 DT. 29/3/99 BY THE HEADMASTER.

EXT.P19. COPY OF THE REPRESENTATION DT. 5/4/99 BY THE PETITIONER TO THE R5.

EXT.P20. COPY OF THE REPRESENTATION DT. 17/4/99 BY THE PETITIONER TO THE R2 DPI.

EXT.P21. COPY OF THE LETTER DT. 9/08/99 SENT TO THE DY. DIRECTOR OF EDUCATION, KOLLAM BY THE PETITIONER.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

O.P. No.19630 of 1999

Dated, this the 5th day of November, 2007

J U D G M E N T

Petitioner is a last grade staff in an aided school. As of now, he enjoys the benefit of the interim order issued by this Court on 03/08/1999, granting stay against operation and implementation of all proceedings on the basis of Exts.P17 & P18.

2. No counter affidavit by the respondents.

3. The deployment of the petitioner, as per the impugned orders, was impermissible because he was a protected last grade servant and therefore he was not deployed. Ext.P16 also provided for retention of the teachers & non-teaching staff in the same school. Having regard to the terms of Ext.P10 and the provisions in Ext.P14 the impugned action is unsustainable.

For the foregoing reasons, this writ petition is allowed as prayed for.

Sd/-

(THOTTATHIL B.RADHAKRISHNAN, JUDGE.)

jg